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**County of Hawai'i**  
**PLANNING DEPARTMENT**

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March 3, 2021

Anna J. Walsh  
12962 Springwood Dr.  
Santa Ana, CA 92705

Dear Ms. Anna J. Walsh,

Additional Farm Dwelling Agreement (FDA-21-000485)  
Applicant: Anna J. Walsh  
Owner(s): Anna J. Walsh  
State Land Use: Agricultural  
County Zoning: Agricultural (A-5a)  
Land Area: 130,699 sq. ft.  
TMK: (3) 8-2-008:050-0000 (COR-20-137674)

Pursuant to authority conferred to the Planning Director by Chapter 25 (Zoning), Article 5, Division 7, Section 25-5-77 of the Hawaii County Code and Planning Department Rule 13, Farm Dwellings, we have reviewed your request for **one (1) additional farm dwelling** on the subject property and have **approved** your request subject to the following.

**BACKGROUND INFORMATION**

1. **Subject Property:** Portion of Kalamakumu – Kahauloaike, South Kona, Hawaii
2. **Lot Size:** 130,699 sq. ft.
3. **State Land Use:** Agriculture (A).
4. **County Zoning:** A-5a.
5. **Proposed Request:** One Additional Farm Dwelling.
6. **Existing Structures:** There is a single family dwelling, which was permitted in 1989
7. **Building Permits:** There is a building permit of record in Real Property Tax Records.
8. **Farm Plan:** Includes the following existing and expanded income producing agricultural activities.
  - a. **Existing and expanded agricultural activities include:**
    - i. There is approximately 60,000 square feet of grazing chickens and sheep, with a proposed expansion to 15,750 square feet of mango's, papaya's, banana's, pineapples and chickens for organic egg production.

9. **Evidence of Agricultural Activity:** There is evidence of agricultural income and expenses from receipts or invoices from expenses incurred in the development of a farm or agricultural activity.
10. **Rationale for Establishing AFD:** To accommodate farm help.

### FINDINGS

1. Chapter 205, Hawaii Revised Statutes (HRS), the State Land Use Law does not authorize residential dwellings as a permitted use in the State Land Use Agricultural district unless the dwelling is related to an agricultural activity or is a farm dwelling. A **farm dwelling** as defined in HRS Chapter 205-4.5 means a **single family dwelling located on and used in connection with a farm**, including clusters of single family farm dwellings permitted within agricultural parks developed by the State, or **where agricultural activity provides income to the family occupying the dwelling.** (Emphasis added)
2. The subject lot was created by subdivision (SUB-2564-A) approved on December 14, 1967, which pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income-producing agricultural activity.
4. In addition, the following agencies have submitted their comments as identified below:
  - a. Department of Water Supply (DWS) memo January 21, 2021.

### DECISION AND CONDITIONS

In view of the above, your request to construct one (1) Additional Farm Dwelling on the property is approved subject to the following conditions:

1. Your AFDA has been approved based on existing and expanded agricultural activity as summarized in this letter.
2. The AFD shall be used for farm-related purposes and provide shelter for persons involved in the agricultural or farm-related activity on the building site. Family members who are not engaged in agricultural or farm related activities are allowed to reside in the additional farm dwelling.
3. An Additional Farm Dwelling Agreement affidavit shall be notarized and submitted to the Planning Department for recordation with the Bureau of Conveyances, State of Hawaii which states that the additional dwelling shall be used for farm related purposes.

4. The farming enterprise shall be commercial in nature and up to seventy-five-percent (75%) of your proposed farm plan shall be implemented within three (3) years from the AFDA approval date. The Planning Department shall be allowed to inspect the farm upon reasonable prior notice.
5. The agreement shall run with the land and apply to all persons who may, now or in the future, use or occupy the additional farm dwelling. The enclosed AFD Agreement must be returned to the Planning Department with the appropriate notarized signature(s) along with a check made out to the Bureau of Conveyances in the amount of \$41.00 in accordance with the enclosed AFDA Instructions.

**The Planning Department will not approve a building permit application for the additional dwelling until the AFDA document and all required attachments have been sent for recordation by the Planning Department.**

6. The applicant is responsible for any State and Federal tax consequences due to the income produced from the farm activity.
7. The First Party (as identified in the Additional Farm Dwelling Agreement) shall allow the Second Party or its representatives to inspect the farm upon reasonable prior notice.
8. DWS has noted that the subject parcel does not have a County approved water service at present, and an additional water service is not available for the additional dwelling.
9. This AFD shall be valid for a period of two (2) years from the date of this approval letter to secure a Building Permit (BP) for the AFD. Failure to secure a BP for this AFD on or before **March 3, 2023**, may cause the Director to initiate proceedings to invalidate the AFD.
10. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
  - a. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence.
  - b. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
  - c. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
  - d. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

In reference to the Department of Water Supply's comment, and in addition to the use the existing well, we suggest the following:

- a. An existing 5/8-inch meter services this property and is adequate for only one (1) dwelling unit at an average of 400 gallons per day. In as much as this application is proposing an additional dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with the Department's regulations. However, the Department's existing water system facilities cannot support an additional water meter at this time. Extensive improvements and additions, which may include, but not be limited to, source, storage, booster pumps, transmission, and distribution facilities, would be required.
- b. Currently, sufficient funding is not available from the Department for such improvements and no time schedule is set.
- c. Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting that the Department cannot provide service to the proposed additional farm dwelling. Should the application be approved, all dwellings shall not share the existing meter, and the water system plumbing between any dwellings shall not be interconnected in any way.
- d. Should there be any questions, please contact Mr. Troy Samura of our Water Resources and Planning Branch at 961-8070, extension 255.

Please feel free to contact Terri L. Napeahi of this office at (808) 323-4770, ext. 4774 or email [terri.napeahi@hawaiicounty.gov](mailto:terri.napeahi@hawaiicounty.gov) should you have any questions and/or concerns.

Sincerely



ZENDO KERN  
Planning Director

TLN tln  
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xc: Chief Sanitarian, DOH w/application  
Manager, DWS w/application  
Administrator, RPT w/application  
Planning Department – Kona